

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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JAMES F. SIMERMAYER and JAMES :
F. SIMERMAYER II, :
Plaintiffs, :
: 07 Civ. 5842 (LAP)
: ORDER
:-----x
-v- :
AEROSUR USA, :
: Defendant. :
-----x

LORETTA A. PRESKA, U.S.D.J.

On June 20, 2007, this case was removed from New York County Civil Court. On June 21, 2007, the Defendant moved to dismiss the case, arguing that Plaintiff's claims were preempted by the Montreal Convention. (See generally Def. Mem.) Plaintiff neither responded to the motion, nor the Court's order requesting an update on the status of the case issued on December 12, 2007.

The Court, having reviewed the motion, concludes that it has merit. Moreover, Plaintiff's failure to submit any opposition papers or respond in any way provides sufficient grounds to grant the motion to dismiss. Castro v. Metropolitan Transit Authority, No. 05 Civ. 6467 (RJH), 2006 WL 2597848, at *1 n. 3 (S.D.N.Y. Sept. 11, 2006); S.D.N.Y. Local Civil Rule 7.1 ("Willful failure to comply with this

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rule may be deemed sufficient cause for the denial of a motion or for the granting of a motion by default.").

Accordingly, Defendant's motion to dismiss (dkt. no. 3) is GRANTED without prejudice. The clerk of the Court shall mark this action closed and all pending motions denied as moot.

SO ORDERED:

Dated: New York, New York
January 13, 2008


LORETTA A. PRESKA, U.S.D.J.